

REMARKS

Claims 1, 4, 10 through 18, and 21 through 34 are in this application and are presented for consideration. Claims 1, 4, 10, 14, 15, 16, 18 and 23 have been amended, and new claims 24 through 34 have been added.

The abstract and claims have been amended to address the Examiner's objections, incorporate the Examiner's suggestions and to place the application in better form. The claims have been amended to further highlight and more clearly point out the important features of the invention. Applicant thanks the Examiner for the careful reading of this application, for pointing out discrepancies, and for providing suggestions.

Claims 1-23 have been rejected as being anticipated by DE 100 05 167.

New independent claim 29 sets forth a second shift stop defining a second position. In the embodiment of the drawings, the second shift stop is formed by rocker arm 6. The second shift stop is set forth as being movable between first and second locations. In the embodiment of the drawings, the first location is shown in figures 1 through 3. Claim 29 sets forth that the first location prevents the gearshift lever from moving past the second shift position. Figure 3 shows the second shift position, and as one can see, the gearshift lever is prevented from moving past this second shift position by the rocker arm 6.

The rejection does not specifically indicate which structure in 167 is equated with the second shift stop of the original claims. Applicant has reviewed 167, and notes that element 8 of this reference does not have all the features of the second shift stop of claim 29. In particular element 8 does not prevent a gearshift lever from moving past a second shift position. Instead

element 8 clearly has a sliding surface 11 which causes element 8 to slide up if the gearshift lever is moved into contact with element 8, see paragraph 24 of US2002/0170376, which corresponds to 167. Applicant finds no teaching nor suggestion of any other structure in 167 that has all of the features of the second shift stop of claim 29. Therefore claim 29 cannot be anticipated by 167, and claim 29 defines over 167.

Claim 29 also sets forth an actuating device which moves the second shift stop into its second location to increase the shift gate beyond said second shift position. The second location of the shift stop is shown in the embodiment of the drawings by figure 4. As one can see from the drawings, when the second shift stop is in the second location, the length of the shift gate is increased, and the gear shift lever can move beyond the second shift position. Applicant finds no teaching nor suggestion of any actuating device in 167 which increases a shift gate by moving a shift stop. In 167, the length of any shift gate remains the same regardless of how element 8 is moved by any actuating device. Therefore claim 29 further defines over 167.

Claim 29 also sets forth a restoring device biasing the gearshift lever into an intermediate position. In the embodiment of the drawings, this restoring device is shown by elements 16, 17 and 18. These elements apply force to the gearshift lever towards the intermediate position. Applicant finds no teaching nor suggestion of this structure in 167. Therefore claim 29 further defines over 167.

Claim 32 depends from claim 30 which depends from claim 29, and together set forth a lock for preventing the second shift stop from moving toward the intermediate position. In

the embodiment of the drawings, this shift lock is shown by the elements 10, 11, 25 and 26. As one can see from figure 5, these elements prevent the arm 6 from moving towards the intermediate position. Applicant finds no teaching nor suggestion of such a lock in 167. Claim 32 therefore further defines over 167.

Claim 34 sets forth a selector device to select one of the locations of the second shift stop. In the embodiment of the drawings, this selector device is represented by pushbutton 20, which can send an electrical signal to the actuating device, preferably elements 13 and 14. Claim 34 also sets forth a control circuit reading a selection of the selector device and controlling the actuating device taking into account current driving conditions and/or a current shifting state. This is described in the specification in paragraph 47 and an embodiment is shown in figure 7. This feature is beneficial in order to prevent an operator of a motor vehicle from either damaging the transmission or having the gearshift lever give a false indication. As an example, when the vehicle is rolling, the transmission should not be moved into the "park" gear, as this can damage the transmission. The control circuit could recognize the rolling and prevent the gearshift lever from moving into a park position. Applicant notes that a control circuit could allow a gearshift lever to be in a "park" position but not actually place the transmission in park if the vehicle was rolling. However this would give a false indication to an operator of the vehicle. By the present invention preventing movement of the gearshift lever, a false indication is avoided.

Claim 1 has been amended to set forth that the one shift stop that is countermaned by the actuating device is an actual stop against a mechanical resistance that cannot be overcome

with normal force. Applicant finds no teaching nor suggestion of such a shift stop in 167. In contrast to amended claim 1, the lever 8 according to 167 has at its free end a hook 9, which has an oblique sliding surface 11 (column 3 lines 63 -- 65). If the gearshift lever 2 is pivoted into the "park" position, the bolt 10 slides along the sliding surface 11 of the hook 9, pivots the hook 9 upward until engagement of the hook 9 in the bolt 10, supported by the spring 14, is brought about (column 4 lines 6 -- 10). Therefore the sliding surface 11 of 167 cannot serve as an actual stop against a mechanical resistance that can not be overcome with normal force. Amended claim 1 therefore cannot be anticipated by 167, and defines over 167.

New independent claim 24 is a combination of original claims 1, 2, 3, and 5 through 8. Claim 24 thus sets forth a locking element preventing an emergency lever from pivoting. In the embodiment of the drawings, this locking element is shown by elements 10, 11, 25 and 26. Applicant finds no teaching nor suggestion in 167 of such a locking element. Claim 24 therefore also defines over 167.

New claim 25 is similar to original claim 9, and sets forth that the locking element is a rocker element which is mounted on a shaft and can prevent the rocker arm from being pivoted around emergency lever shaft in a blocked position, and permits this pivoting in another released position. Applicant finds no teaching nor suggestion of a locking element in 167, and especially a locking element as set forth in claim 25. Therefore claim 25 further defines over 167. Furthermore, since hook 9 of 167 has a sliding surface 11, which is beveled such that hook 9 can yield when approaching the pin 10 and then hook in, 167 cannot suggest structure which would prevent the second lever 8 from being pivoted around the first pivot axis 12 in a

blocked position. Claim 25 therefore further defines over 167.

Claim 26 sets forth the features of the rocker arm and a locking element. As described above, since 167 does not describe a locking element, 167 cannot disclose the further features of claim 26. Claim 26 therefore further defines over the prior art.

Claims 27 and 28 set forth structure similar to the structure added by amendment in claim 1. Claims 27 and 28 therefore further define over the prior art for the reasons given in the remarks concerning claim 1.

If the Examiner has any comments or suggestions which would further favorable prosecution of this application, the Examiner is invited to contact applicant's representative by telephone to discuss possible changes.

At this time applicant respectfully requests reconsideration of this application, and based on the above amendments and remarks, respectfully solicits allowance of this application.

Respectfully submitted
for Applicant,



By: _____

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Attached: Petition for One Month Extension of Time

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